IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.424 of 2006

Murugan @ Nondy Murugan ... Petitioner

Vs.

1.The District Magistrate and
District Collector,
Kancheepuram District,
Kancheepuram.

2.The Secretary to Government,
Government of Tamil Nadu
Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-600 009. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the first respondent dated 27.12.2005 in proceedings No.B.D.F.G.I.S.V.No.61/2005, set aside the same and produce the detenu by name Murugan @ Nondi Murugan S/o Kanniappa Naicker, now confined in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mr.M.Dhamodharan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Murugan @ Nondi Murugan, who is detained as a ''Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 27.12.2005, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner submitted that there was delay in passing the impugned detention order. While elaborating the said contention, the learned counsel has pointed out that though the detenu was arrested on 18.11.2005 in respect of the ground case alleged to have taken place on 17.11.2005, the detention order was passed only on 27.12.2005. In the absence of proper explanation, the detention order cannot be sustained.

4. As against the same, the learned Additional Public Prosecutor submitted that apart from the ground case, the detenu has nine adverse cases to his credit and he has also pointed out that the ground case and the nine adverse cases spread over in various places viz., Chengalpattu, Thirukalukundram, Cheyyur, Chunambedu, Kalpakkam, Sadras and Padalam. In view of the number of cases viz., 9 and of the fact that he has committed theft in several domestic shops, pawn brokers shop, it is the case of the respondents that the sponsoring authority had to spend more time to collect the materials from all the places. In such circumstances, we accept the explanation offered by the learned Additional Public Prosecutor and reject the contention raised by the learned counsel for the petitioner.

5. The Tamil version of the remand extension order dated 02.12.2005 and 16.12.2005 were not supplied to the detenu. The learned Additional Public Prosecutor by placing the records submitted that on the basis of the request of the detenu, the said copies were supplied to the detenu on 04.05.2006. We have also verified the records and we are satisfied that the relevant copies were supplied to the detenu.

6. Finally, the learned counsel appearing for the petitioner submitted that there is enormous delay in disposal of the representation dated 06.04.2006 of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu was received by the Government on 18.04.2006 and remarks were called for on 20.04.2006 and the remarks were received by the Government on 27.04.2006 and the File was submitted on 28.04.2006 and the same was dealt with by the Under Secretary on 28.04.2006 and by the Deputy Secretary on 02.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 03.05.2006. The rejection letter was prepared on 10.05.2006 and the same was sent to the detenu on 12.05.2006 and served to him on 16.05.2006. The learned counsel for the petitioner by drawing our attention to the fact that the Minister for prohibition and Excise passed order on 03.05.2006 submitted that the officials are not justified in

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taking time till 10.05.2006 for preparing the rejection letter. The learned Additional Public Prosecutor has brought to our notice that 06.05.2006 and 07.05.2006 were holidays being Saturday and Sunday and 08.05.2006 being declared as holiday due to general election and if we exclude the three public holidays, we are satisfied that there was no let up or undue delay in consideration of the representation of the detenu. Accordingly, we reject the said contention also.

7. In the light of what is stated above, we do not find any error or infirmity in the order of detention. Accordingly, the Habeas Corpus Petition fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Secretary to Government,
State of Tamil Nadu, Prohibition
and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Kancheepuram District,
Kancheepuram.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.M.Dhamodharan, Advocate, Sr. 30855

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